

REMARKS

Applicant respectfully requests reconsideration and allowance of claims 1-17, and of new claims 18-20, that are now pending in the above-identified application. Applicant has amended claims 1, 10 and 16, and has added new claims 18-20. No new matter has been added by the claim amendments and the new claims.

The Examiner has rejected claims 1-12 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,559,882 to Kerchner, which was filed on September 2, 1999 and issued on May 6, 2003. Applicant respectfully traverses this rejection.

It is clear that the disclosure in the Kerchner patent that "the door panel 5 and the surround 7 are separate components and as the door panel 5 is concealed by surround 7 when the oven door is closed, there is scope for customization of otherwise identical microwave ovens..." (Kerchner, col. 10, lines 49-52.) The Kerchner patent contemplates only a removable module 12, going to the extent of discussing the manufacturer of standard door panels 5 and standard patterns of mounting lugs 6 on their door panels 5. (*Id.* at lines 54-56.) Kerchner contemplates different surrounds 7 being attached to suit different sizes and shapes of a cabinet. There is thus being in surround 7 "a standard recessed 10 adapted to receive a standard communications module 12." (*Id.* at lines 56-60.) The objective is to have standard communications module 12 fitted neatly into several completely different microwave ovens without major tooling investments from their manufacturers. (*Id.* at lines 61-64.)

Kerchner continues by explaining that the communications module 12 is a "self-contained unit that can be integrated into the door 3 of the microwave oven." (Kerchner, col. 11 at lines 20-21.) A "widely-available and economic

12.1'' - diagonal TFT-type flat panel" that would fit and "be dictated by the size of the microwave door." (*Id.* at lines 47-52.) The key to the invention in the Kerchner patent is the latch 18, which allows retention and release of the communications module 12 out of the recess 10, and thus portability of the communications module 12. In sum, module 12 is "a stand-alone communications module 12." (Kerchner, col. 11, line 33.)

One need only review the drawings in the Kerchner disclosure to understand that the entire structure involved in the Kerchner patent is a surround 7 that is attached to a door panel, and that surround 7 includes a communications module 12 and a latch 18 to remove the communications module 12. Numerous figures display this structure and no figures disclose anything other than that concept. The remainder of the figures are simply black box depictions that reveal components that mostly appear external to the kitchen appliance in many instances.

Applicant has amended claim 1 solely for the purpose of making it more clear that the display recited in claim 1 is integrally and non-portably built within the door of the kitchen appliance. This is clearly antithetical to the Kerchner teachings. Indeed, as such is not disclosed in the Kerchner patent, the § 102 rejection must fail. There is also nothing obvious from the teachings in Kerchner that would lead one of ordinary skill in the art to integrally and non-portably build a display within the door of a kitchen appliance. Kerchner teaches the exact opposite, and thus away from the present invention.

With respect to claims 2 and 3, the microwave oven in Kerchner does not include a television tuner. Claim 3 specifically calls for the tuner to be in the housing of the kitchen appliance. Kerchner does not disclose that this is the case. Instead, it discusses a group of connectors for purposes of connecting the communications module 12, as portably placed

within the surround 7, to external components. At best, one might speculate that the communications module 12 carries the tuner itself. Of course, this is improper. Moreover, that is not in the housing of the kitchen appliance. Rather, it is a portably mounted device onto a kitchen appliance. Indeed, Kerchner states that "it is a design objective that an appliance including the communications module 12 shall require no special tools for installation and so should be installable by the customer." (Kerchner, col. 15, lines 8-10.)

Applicant refers also to claims 4 and 6, calling for the kitchen appliance to include a microprocessor. Again, to an extent that there is a microprocessor in the communications module 12, it is a portable communications module 12, and not in the kitchen appliance housing. As Kerchner does not disclose a microprocessor within the housing of the kitchen appliance, the § 102 rejection cannot be maintained.

In claim 5, Applicant claims a keyboard for controlling the microprocessor. The keyboard is what is conventionally understood to be a keyboard. Specifically, it is one that is typed on, not a touch screen such as that disclosed in the Kerchner patent. The Kerchner patent only discloses a touch screen and to the extent that it uses the language "keyboard" it is referring to a touch screen display and nothing more. Accordingly, as Kerchner does not disclose a keyboard, the § 102 rejection cannot be maintained.

Turning to claim 10, Applicant refers to the above arguments respecting to the Kerchner patent. Once again, as Kerchner does not disclose each of the elements in claim 10, the § 102 rejection must be withdrawn.

Referring to claim 12, Kerchner does not disclose a kitchen appliance wherein the display covers about one-half of a planar surface. The only display in Kerchner is that embodied in the removable and portable communications module 12. It does

not cover about one-half of the planar surface. Indeed, this ties in with the above arguments respecting the portability of the communications module 12. Given the fact that it is a portable module, it necessarily is built within a frame that is adapted to be attached to a conventional microwave oven. Thus, the display on the communications module 12 is necessarily smaller than the door. It is not one-half the size of the front of the microwave. Thus, the § 102 rejection must be withdrawn.

Applicant respectfully requests withdrawal of the § 102(e) rejection of claims 1-12 in light of the above.

The Examiner has also rejected claims 13-17 under § 103(a) as being unpatentable over Kerchner. Applicant respectfully traverses this rejection in light of the following.

Examiner admits that Kerchner does not disclose the display on the planar surface of the microwave oven on a different side of the microwave oven and the door. The Examiner simply concludes, without analysis, that it would be obvious to one of ordinary skill in the art to place the display on a side surface. First, Kerchner does not at all specifically disclose a refrigerator as containing its removal and portable communications module 12. Thus, it is inappropriate for the Examiner to read the disclosure of Kerchner as rendering the present invention obvious because, as the Examiner conclusorily states, it is obvious to place the communications module 12 on the side of an appliance such as a refrigerator. Nothing in the Kerchner disclosure makes any reference whatsoever to the use of the side of an appliance for a display. There is not a scintilla of a hint that what is considered the side of an appliance could include a display.

The above perhaps is the best example of the use of hindsight in reviewing the claims of the present application. It is, of course, improper to reconstruct the claimed invention through hindsight. Such an approach would render most claims

unpatentable as it provides a mere road map for an obviousness evaluation. Thus, the Board and the Federal Circuit have been very clear in discouraging such an approach. This approach appears to have played its way, not only into the § 103 rejection, but also the § 102(e) rejection, in that many of the aspects of the § 102 rejection are based on the assumption that elements exist within the Kerchner disclosure. Applicant submits that perhaps such assumptions were made as result of hindsight as the Examiner reviewed the claims in the present application, and assumed that the device in Kerchner would include such elements. In any event, applicant respectfully requests the Examiner's reconsideration with these concepts in mind.

With respect to claim 14, it specifically requires the kitchen appliance to be a refrigerator and the planar surface carrying the display on the side of the refrigerator. As set forth above, nothing in the Kerchner patent contains such an arrangement. There is nothing in the Kerchner patent that would provide the requisite suggestion, explicit or implicit, to provide such an arrangement.

Claim 15 in the present application calls for a display covering for selective covering and uncovering of the display. The Kerchner disclosure is devoid of any such cover. Here, the Examiner conclusorily states that it would have been obvious to provide a display cover to keep it clean. There is no suggestion whatsoever but Kerchner that its communications module 12 be covered when not in use. Indeed, the removability and portability of the communications module 12 would seem to suggest the opposite. To provide a cover would be to provide yet further mechanical expedients for removing the cover in and out of place when the Kerchner product already includes mechanical expedients for mounting the surround 7 and mounting the communications module 12 for removability and portability.

Indeed, were any such display contemplated, it might have been provided in connection with the surround 7, as that is a separately attachable item to the microwave door.

Independent claim 16 includes not only the concept being integrally and non-portably built into a planar surface, but also the concept of a display cover for selective covering and uncovering of a display. As set forth immediately above, this arrangement is simply not shown or disclosed in the Kerchner patent, and there is no suggestion, implicit or explicit, to provide such a display cover. Again, the use of hindsight may have led to this result.

Accordingly, Applicant respectfully requests withdrawal of the § 103 rejection.

With respect to new claim 18, Applicant has specifically set forth that the kitchen appliance in claim 1 is a refrigerator, dishwasher, a conventional oven, a freezer or a wine storage unit. The disclosure in Kerchner of a kitchen appliance generically does not disclose these items. There are different considerations involved in incorporating a display within the different appliances, and Kerchner only addresses a microwave oven. Kerchner was focused on the placement of a microwave oven within the kitchen and thus contemplated only that specific appliance. The application of Kerchner's specific invention, including a surround 7 and communications module 12, is well-suited for a microwave oven given the size of the microwave oven door. Certainly, there is not one mention of these appliances in the Kerchner patent, and the present invention contemplates the display being integrally and non-portably built into the doors of these units.

New claim 19 calls for the modification of the hinges of the kitchen appliance in order to accommodate the display and its associated components. Thus, the hinge would have to be a hinge that was modified in order to modify the display and

associated components, and this claim would not cover a kitchen appliance in which the hinge would not require modification from that which would be required to support a door that did not have to support both a door and a display. Nothing of this sort is disclosed in the Kerchner patent.

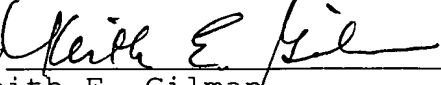
Applicant is concerned with the conduct of this examination insofar as the initial Office Action was based on a reference that clearly was not applicable to the claims, and quite easily overcome. This was borne out by the Examiner's abandonment of that reference entirely. It is believed that the Examiner simply issued the first Office Action in order to wait for the issuance of the Kerchner patent. Applicant is appreciative that the Examiner did not render the second Office Action to be a final Office Action, but believes the approach to have been improper as there was no interference potential given Kerchner's claim in its issued patent. It appears that the Examiner was determined to reject the present application over the Kerchner patent even before the Kerchner patent issued. Thus, Applicant requests the Examiner's careful consideration of the issues presented herein, and the Examiner's cooperation with the undersigned in securing allowance in this case.

Accordingly, it is Applicant's belief that all claims pending the present application are in condition for allowance, early and favorable action is earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taking up this time, it is respectfully requested that the Examiner contact Applicant's attorney at 908-654-5000 in order to overcome any additional objections that the Examiner might have.

If there any charges in connection with the requested Amendment, the Examiner is authorized to charge deposit account 12-1095 therefore. Applicant does not believe that any charges are due and owing.

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Respectfully submitted,

By 
Keith E. Gilman
Registration No.: 32,137
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant